

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

December 12, 2008

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 08HD-141

HAWAII

Set-Aside of an Easement to County of Hawaii for Emergency Road Purposes,
Puako, South Kohala, Hawaii, Tax Map Key: 3rd/ 6-9-001:017 por. & 6-9-
006:051 por.

APPLICANT:

County of Hawaii, 891 Ululani Street, Hilo, Hawaii 96720.

LEGAL REFERENCE:

Section 171-11, Hawaii Revised Statutes (HRS), as amended.

LOCATION:

Portion of Government lands of Lalamilo situated at Puako, South Kohala, Hawaii,
identified by Tax Map Key: 3rd/ 6-9-001:017 & 6-9-006:051, as shown on the attached
maps labeled Exhibits A-1, A-2 and A-3.

EASEMENT AREA:

18,750 sq. ft., more or less.

TMK/ ZONING/ CURRENT USE/ LAND AREA:

TMK	ZONE		AREA Acres	CURRENT USE
	LUC	CZO		
3 rd / 6-9-001:017	Conservation	Ag-5a; SMA	230.067	Mauna Lani Resort under GL S-5162
3 rd / 6-9-006:051	Urban	Open; SMA	1.063	Vacant and unencumbered

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES _____
NO X

PURPOSE:

Emergency road purposes.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

The Final Environmental Assessment for the subject project was published in the OEQC's Environmental Notice on August 8, 2008 with a finding of no significant impact (FONSI).

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost;
- 2) Obtain the written concurrence of Mauna Lani Resort (Operations), Inc. to the set-aside of the easement to the County of Hawaii as to Tax Map Key 3rd/ 6-9-001:017, by executive order;
- 3) Comply with the terms and conditions of CDUP HA-3488; and
- 4) Comply with applicable County SMA requirements.

REMARKS:

Tax Map Key 3rd/ 6-9-001:017 was leased to Mauna Lani Resort, Inc. for 55 years commencing on July 24, 1987 under General Lease No. S-5162 for the following purposes: (1) an archaeological park; (2) a public beach park; (3) public access roadway to the archaeological park and public beach park; and (4) commercial recreational use, including but not limited to golf course. At its meeting of October 27, 1995, Item F-1-c, the Board of Land and Natural Resources approved as amended a request for the assignment of the lease to Mauna Lani Resort (Operations), Inc. (MLRI), and the assignment was executed effective as of January 1, 1996.

Tax Map Key 3rd/ 6-9-006:051 is a vacant and unencumbered parcel at the end of Puako Beach Road.

Puako Community Association initiated an effort several years ago to establish an alternate escape route from Puako in the event of an emergency. At present, a single road provides access to and from Puako from the north end of the community. Wildland fires burning within a quarter mile of Puako residences in 2007 and the destructive earthquakes of October 15, 2006 have highlighted the need for an alternate emergency access and escape route from Puako.

The Association hired a consultant to prepare an environmental assessment for a proposed emergency road connecting the end of Puako Beach Road to the Holoholo Kai Beach Park access road at Mauna Lani Resort. The emergency road would be unpaved and located on a portion of the subject lands. The proposed road would be gated and locked under normal conditions and used only during emergencies. County Civil Defense and other emergency personnel would have keys to the gates.

Puako Community Association conferred with the MLRI and obtained its concurrence to the construction and maintenance of the road on its leased property.

As indicated above, TMK 3rd/ 6-9-001:017 is in a conservation district. The Association, through its consultant, submitted a Conservation District Use Application for the construction of the road that was accepted by the Department of Land and Natural Resources, Office of Conservation and Coastal Lands, on May 19, 2008. The Association additionally processed a Special Management Area (SMA) application with the County of Hawaii Planning Department and received an SMA permit for the road construction on July 24, 2008.

A Finding of No Significant Impact (FONSI) was issued on the final environmental assessment for the road, and the FONSI was published in the Environmental Notice on August 8, 2008.

Staff was advised that a standard grant of a non-exclusive easement from the State to the County for the road would prohibit the road from being gated. However, a set-aside of an easement to the County by executive order would allow for the gating of the road.

By letter dated August 18, 2008, Mayor Harry Kim requested a set-aside of an easement for the emergency road to the County of Hawaii. The letter indicates that the Association will pay for the construction of the road, and that the County will accept jurisdiction over the road upon completion of construction.

At its meeting of November 14, 2008 (Item K-4), the Board approved the Association's CDUA Application HA-3488.

A construction right-of-entry issued to the County will permit the County, its consultants, contractors and/or persons acting for or on its behalf to begin construction of the road prior to the issuance of an executive order for the set-aside of the easement to the County.

Staff is of the opinion that the emergency road is a desirable and appropriate use of the subject lands.

RECOMMENDATION:

That the Board, subject to Applicant fulfilling the Applicant Requirements above:

1. Approve of and recommend to the Governor the issuance of an executive order setting aside an easement over the subject lands to the County of Hawaii under the terms and conditions cited above, which are by this reference incorporated herein and subject further to the following:
 - A. The standard terms and conditions of the most current executive order form, as may be amended from time to time;
 - B. Disapproval by the Legislature by two-thirds vote of either the House of Representatives or the Senate or by a majority vote by both in any regular or special session next following the date of the setting aside;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the issuance of a construction right-of-entry permit to the County of Hawaii covering the subject easement area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time; and

- B. Such other terms and conditions as may be prescribed by the
Chairperson to best serve the interests of the State.

Respectfully Submitted,



Kevin E. Moore
Hawaii District Land Agent

APPROVED FOR SUBMITTAL:



Laura H. Thielen, Chairperson







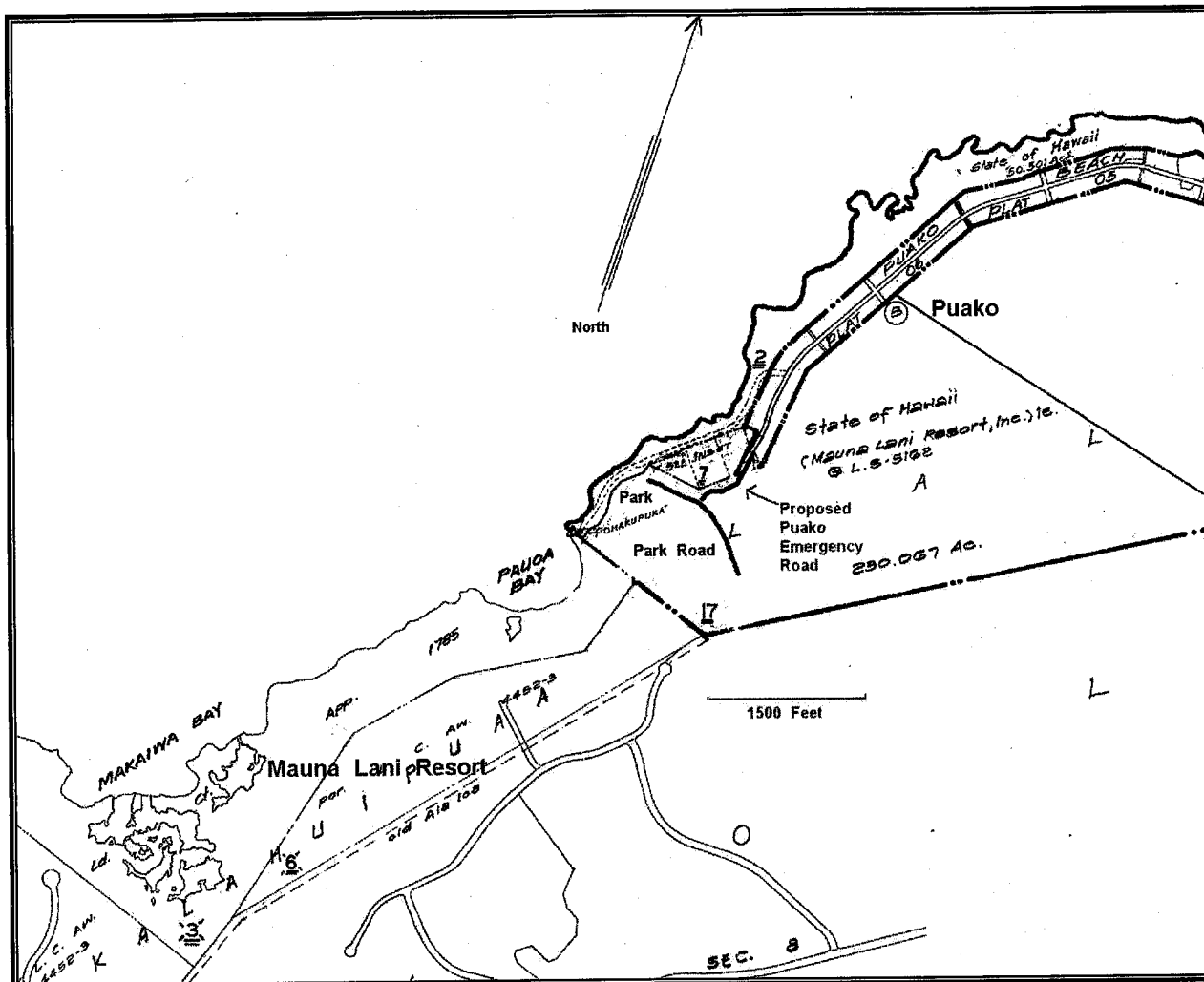


Figure 5 - TMK Map Showing Approximate Route of Emergency Road